

Chapter 1 AI's Using Copyrighted Material Leading to Legal Protection for Musicians

Introduction

In April 2023, innumerable reports were published regarding the removal of the song '*Heart on My Sleeve*' by Ghostwriter, from the streaming services¹. This news appeared to be the most remarkable development for the music industry. According to the reports the song, '*Heart on My Sleeve*' was released which very closely resembled the voices of the legendary artists Drake and The Weeknd. With in-depth investigations, it was detected that the song was just a creation by an AI-generated tool, which emulated the voices of these artists.

This report raised questions about the concerns of copyright in the music industry and in no time, AI-generated music is delivering all kinds of music in abundance.

In this chapter, the core objective is to understand the provisions through which AI uses copyright-protected music material and the way such activities have an impact on the artists and the music companies that hold copyrights over the piece of art. Through critical evaluation of the Main Research Question: *Does AI-generated music infringe copyright in music?*, this chapter will investigate the usage of AI-generated tools for creating music, like Jukedeck and Anthropic Claude. The purpose is to understand the conditions of copyright

¹ Coscarelli J. '*An A.I. Hit of Fake 'Drake' and 'The Weeknd' Rattles the Music World*'. The New York Times Company. April 19, 2023. <https://www.nytimes.com/2023/04/19/arts/music/ai-drake-the-weeknd-fake.html> accessed 4th April 2024; Kelly S. M. '*The viral new 'Drake' and 'Weeknd' song is not what it seems*'. Cable News Network (CNN). April 19, 2023. <https://edition.cnn.com/2023/04/19/tech/heart-on-sleeve-ai-drake-weeknd/index.html> accessed 4th April 2024; Reed R. '*AI created a song mimicking the work of Drake and The Weeknd. What does that mean for copyright law?*' Harvard University. May 02, 2023. <https://hls.harvard.edu/today/ai-created-a-song-mimicking-the-work-of-drake-and-the-weeknd-what-does-that-mean-for-copyright-law/> accessed 4th April 2024; Veltman C. '*When you realize your favorite new song was written and performed by ... AI*'. NPR Org. APRIL 21, 2023. <https://www.npr.org/2023/04/21/1171032649/ai-music-heart-on-my-sleeve-drake-the-weeknd> accessed 4th April 2024; Willman C. '*AI-Generated Fake 'Drake'/'Weeknd' Collaboration, 'Heart on My Sleeve,' Delights Fans and Sets Off Industry Alarm Bells*'. Variety Media, LLC. Apr 17, 2023. <https://variety.com/2023/music/news/fake-ai-generated-drake-weeknd-collaboration-heart-on-my-sleeve-1235585451/> accessed 4th April 2024

infringement allegations within electronic music. Further, by referring to some of the significant cases like *Verve vs. The Rolling Stones* and *Hyperion Records Ltd v Sawkins*, this chapter will attempt to realise the ways through which it matters for regulating AI-generated music and resolving the emerging complexities led by AI music. Eventually, the chapter will lead to the context of legislative as well as judicial participation in protecting copyrighted music and will advocate the need for a balanced policy for protecting the rights of musicians and music houses, along with the advent of innovative AI tools.

Ways AI Regenerate Music

There are many ways through which AI can regenerate music. As identified by Deahl, AI delves into significant counts of sources and thereby sets patterns for creating a newer version of existing melodies, which comprises elements like chord, tempo, and length of the musical piece². In a very systematic manner, the AI tools represent music as numerical data, and these data are used by Machine Learning (ML) algorithms or neural networks to regenerate the selected musical notes, rhythm, and timbre, which can be subject to copyright.

AI-tools for Regenerating Music

Tools like Jukedeck and Anthropic Claude, are popular for generating musical compositions, especially chord charts and scores. These tools are capable of regenerating music autonomously and are involved in manipulating the musical recordings, especially through the usage of imitative vocal synthesisers, which can imitate and fabricate fake voices. These tools also are effective in mixing tracks and crafting the original lyrics.

² Deahl D. 'How AI-generated music is changing the way hits are made: *The Future of Music*, episode 2'. The Verge. Aug 31, 2018, <https://www.theverge.com/2018/8/31/17777008/artificial-intelligence-taryn-southern-amper-music> accessed 4th April, 2024

Jukedek

Jukedek is an AI-led technological tool that has developed an extensive AI platform, which is capable of regenerating all kinds of music, which are royalty-free and could tailor them as per the demands of the users. Jukedek has been marked for democratising the entire process of music creation as per the demands of the consumers and providing adequate business accessibility to the technical creators of music. However, Jukedek is free from any kind of intervention from the original music composer and is also free from any licensing fees³. However, with its recreation of songs by imitating Elvis Presley, 2Pac and other musicians, Jukedek has created enough threats to the human music industry⁴.

It is interesting to note that under the provision of generating music, Jukedek is successfully generating music. However, the exception gets marked unless the software uses musical content that is pre-existing with the copyrighted content and thereby attempts new creative pieces. As referred by Lim the new creative pieces must be expressive and acknowledging to avoid any allegation of copyright,⁵ especially over the act of generating artistic output by the scopes of inputting large algorithms into the system⁶. There is no denial to the fact that, historically, there has always been a demand for low-quality, low-cost content across various creative industries, and AI presents a cost-effective means to produce such content. The

³ Featherstone E. *'Introducing the next generation of music makers.'* The Guardian. 29 Aug 2017. <https://www.theguardian.com/small-business-network/2017/aug/29/computer-write-music-jukedek-artificial-intelligence> accessed 4th April 2024

⁴ Coldewey D. *'OpenAI's new experiments in music generation create an uncanny valley, Elvis'*. Tech Crunch. May 1, 2020. <https://techcrunch.com/2020/04/30/openais-new-experiments-in-music-generation-create-an-uncanny-valley-elvis/> accessed 4th April 2024

⁵ Lim, D. *'A.I. & IP: Innovation & Creativity in an Age of Accelerated Change'*. 52 Akron Law Review 813 (2018). <https://ssrn.com/abstract=3369200> accessed 4th April 2024

⁶ Guadamuz, A. *'Chinese court rules that AI article has copyright.'* TechnoLlama. January 19, 2020. <https://www.technollama.co.uk/chinese-court-rules-that-ai-article-has-copyright> accessed 4th April 2024

acquisition of Jukedeck by TikTok, suggests that AI-generated music will definitely hold the market as a future endeavour and thus must get regulated at the earliest.

Anthropic Claude

Anthropic is the AI developer for Claude who is involved in regenerating music. Anthropic Claude is an advanced AI music generator that can compose all kinds of human-like music with precise complexity and creativity⁷. Just like a human musician or singer, it possesses artistic expression; and it could vehemently influence the entire process of original music creation in different kinds of genres⁸. This advanced capability led to the case where Claude was recently sued by Music Publishers Universal Music, ABKO and Concord in Tennessee federal court.⁹ The Anthropic Claude was accused of misusing “innumerable” copyrighted lyrics without permission to train Claude.¹⁰ The lawsuit stated that Anthropic violated the publishers' rights as it illegally reproduced the lyrics by using more than 500 songs, including the Beach Boys' "God Only Knows" and the Rolling Stones' "Gimme Shelter" to Mark Ronson and Bruno Mars' "Uptown Funk" and Beyonce's "Halo." In the words of the publishers “a whole range of prompts that do not seek Publishers” lyrics, including "requests to write a song about a certain topic, provide chord progressions for a given musical

⁷ Claude Ai. 'How does Claude AI generate music? [2024]'. Claude Ai. January 20, 2024. <https://claudeai.uk/how-does-claude-ai-generate-music/> accessed 4th April 2024

⁸Ibid

⁹Blake Montgomery and agencies. 'Music publishers sue Amazon-backed AI company over song lyrics.' The Guardian. 19 Oct 2023. <https://www.theguardian.com/technology/2023/oct/19/music-lawsuit-ai-song-lyrics-anthropic> accessed 4th April, 2024

¹⁰ibid

composition, or write poetry or short fiction in the style of a certain artist or songwriter."¹¹

The lawsuit underscores the significance of upholding copyright laws to protect creators' rights and maintain the integrity of the creative industry.

It is critical to note that due to its advanced activities, Anthropic Claude faced cases related to the disruption of the traditional creation of music and thereby getting involved in distribution the of AI-generated music to the global market. However, recently Anthropic Claude has filed a historical rebuttal lawsuit against a few music labels, especially the renowned Universal Music Group (UMG), who alleged Anthropic Claude for using their copyrighted music works¹². This lawsuit shows why it's important to enforce copyright laws to protect creators and their work. By holding AI systems accountable for using copyrighted material without permission, we can make sure that creators' rights are respected. This case reminds us of the challenges of balancing new technology with protecting the rights of creators in today's digital world. This is a revolutionary step that has created an adequate amount of threat to the very existence of the music industry.

Why does it matter if AI uses copyrighted musical works?

The rapid growth of AI-generated music has created complicated concerns in the economic, legal, and ethical peripheries. However, there is also the need to check on the frontiers that

¹¹ Catenacci, C. *'Music publishers are not happy with Anthropic: "In layman's terms, it's theft"'*. First Reference. December 21, 2023. <https://blog.firstreference.com/music-publishers-are-not-happy-with-anthropic-in-laymans-terms-its-theft/> accessed 4th April, 2024

¹² Fortis, S. *'Anthropic fights back against Universal Music Group in AI copyright lawsuit.'* Cointelegraph. JAN 18, 2024 <https://cointelegraph.com/news/anthropic-fights-back-against-universal-music-group-in-ai-copyright-lawsuit> accessed 4th April, 2024

should balance the innovative development of AI and its developers. At this juxtaposition, it becomes essential to understand the critical conditions and sans copyright regulations that are liable to create havoc in the music industry.

At the legal frontier, with the emergence of AI, where software uses machine learning and a substantial part of a musician's work to create a piece of work is marked for potentially infringing copyright under the Copyright, Designs and Patents Act 1988 (CDPA); it is significant to mark that a creator cannot control their works without legal repercussions. As a result then it would make laws like the CDPA weaker and undermine it. This scenario would diminish the relevance of copyright protection for musicians and creators, as their original works could be exploited by AI systems without the need for consent or compensation.

Economical Concerns [Projectsdeal.co.uk](https://www.projectsdeal.co.uk)

The increasing usage of AI tools for seamlessly creating different kinds of music is confined to very few technicians and researchers, which is on the way to expansion as huge amounts of investments, added by advanced AI-supported technologies are hitting the global market¹³. However, it is this expansion that questions the moral and ethical concerns, added by the economic losses led by the surplus of musical content by forgoing the artists.

According to the declarations of the UK Music, the Collective Management Organizations (or CMOs) collect the income attained from various usages of music and distribute the amount of royalties to every member of the music creation process on a global basis. However, due to the advent of AI, this economic distribution process is facing challenges as

¹³ Morreale, F. 'Where Does the Buck Stop? Ethical and Political Issues with AI in Music Creation.' *Transactions of the International Society for Music Information Retrieval*, 4(1), pp. 105–113. (2021)

there is no rigid route to the rapid creation of AI-regenerated music and as such, demands for safeguarding human creativity and income through rigid copyright policies are market to matter of voracious concerns¹⁴. These concerns are liable to be evaluated in terms of both ethical and moral grounds that allow the music to expand by completely ignoring the concerns of copyright.

AI-music and Concerns of Copyright

With the emergence of AI where software uses machine learning and uses a substantial part of a musician's work to create a piece of work potentially infringing copyright under the CDPA, where a creator cannot control their works without legal repercussions then it would make laws like the CDPA weaker and undermine it¹⁵. This scenario would diminish the relevance of copyright protection for musicians and creators, as their original works could be exploited by AI systems without the need for consent or compensation.

As per the report of Sky News, the United Kingdom, AI tech accumulates huge amounts of song databases and from there composes music which is recognised as text inputs. The report added that Ed Newton-Rex, who was working for Stability AI, left the job because on ethical grounds he realised that AI was using copyrighted musical content and was training the AI tools for regenerating music. Rex acknowledged that the company is using copyrighted musical works without taking any permission from either the artist or the house of production

¹⁴ UK Music. 'IS MUSIC 2023'. UK Music. <https://www.ukmusic.org/research-reports/this-is-music-2023/> accessed 4th April 2024

¹⁵ Gov. UK. 'Copyright, Designs and Patents Act 1988. As amended by the legislation indicated overleaf.' Assets Publishing Service. Government Of the UK. <https://assets.publishing.service.gov.uk/media/60180c2b8fa8f53fc62c5897/Copyright-designs-and-patents-act-1988.pdf> accessed 4th April 2024

and as such is not sharing any kind of profit margins with the creator and distributors of the respective musical work of art¹⁶. However, the scenario gets further aggravated when it comes to the context of recognising and competing in the context of “originality” in the music industry.

Competing Original Works

If AI-generated works infringe on the copyright of existing works, it can significantly impact the interests of the original creators and owners. For instance, if an AI system produces a work that closely resembles an existing piece, it has the potential to compete directly with the original work, leading to adverse effects on the market for the original creation. This competition could result in a loss of revenue for the original creator or owner, ultimately diminishing their motivation to continue producing new works in the future. Jeff Harleston from Universal Music in his testimony to the Senate Judiciary Committee said, “*We’ve also seen examples of AI-generated music being used to generate fraudulent plays on streaming services, siphoning income from human creators.*”¹⁷ As a result, this fraudulent activity can divert income that would have rightfully gone to human creators towards the individuals or entities behind the AI-generated music. By artificially inflating the play counts of AI-

¹⁶ Nachiappan A. 'Misuse of copyrighted music by AI companies 'could exploit artists'.' Sky News. United Kingdom. 10 December 2023. <https://news.sky.com/story/misuse-of-copyrighted-music-by-ai-companies-could-exploit-artists-13027073> accessed 4th April 2024

¹⁷ Cooke C. 'Universal Music calls for federal publicity right and more transparency in latest AI hearing in US Congress'. COMPLETE MUSIC UPDATE. 13 July 2023. <https://archive.completemusicupdate.com/article/universal-music-calls-for-federal-publicity-right-and-more-transparency-in-latest-ai-hearing-in-us-congress/> accessed 4th April 2024

generated tracks, the perpetrators behind this scheme can unfairly benefit from the streaming revenue that should have been earned by legitimate artists who create original music.¹⁸

A striking example of this issue has been mentioned at the beginning of this chapter, whereby the case of the AI-generated song uploaded by Ghostwriter replicated the voices of popular artists Drake and The Weeknd. This song garnered over 15 million streams and received more than 250,000 plays on Spotify.¹⁹ If an AI deepfake song can gain such popularity within just a few minutes, it could compete with the artists' original songs. In addition, AI deepfakes are problematic, and under UK law, there is no such thing as an image right or personality right and therefore if a person's voice or image is copied or used without their consent there is no legal mechanism for them to protect themselves.²⁰ Drake, upon discovering this unauthorized use of his voice, expressed his frustration by referring to it as "*the final straw*."²¹ The song went viral on TikTok, amassing over 9 million views, with the video caption explicitly stating, "*I used AI to make the song*." TikTok users incorporated the same audio into their content, with many praising the quality of the AI-generated music.

While details about the creation process of this song remain scarce, the trend of AI-generated mimicry is gaining traction among the public. Such instances of replicated works not only pose a direct challenge to the original creations but also have the potential to disrupt the market for authentic content. This phenomenon highlights the pressing need to address the

¹⁸ ibid

¹⁹ ibid

²⁰ ibid

²¹ ibid

implications of AI-generated works on copyright infringement and the broader creative landscape.

Issues of Transparency

Issues also lie within current musicians and the use of AI. An example is the new album Kanye released named “Vultures 1” which is reportedly being accused of using samples from artist Donna Summer’s song without permission.²² Summer’s estate accused Kanye of copyright infringement after “Kanye West asked permission to use Donna Summer’s song: I Feel Love, was denied... he changed the words, had someone re-sing it or used AI, but it’s I Feel Love... copyright infringement.”²³ If Kanye did use AI to infringe copyright laws, it may create a bad image for his fans impacting a wide audience. Transparency in the use of AI technology and copyrighted material helps artists maintain trust with their audience and the creative community. By being transparent about the sources and permissions of their work, artists uphold their integrity and credibility in the industry. If the use of AI in the music industry gets normalised, then it would be difficult to tell when copyright infringement has occurred and this will create a drift between artist's work and their audiences. In this context, the intervention of AI in restructuring the original tracks of music can be assessed under the historical case of *Hyperion Records Ltd v Sawkins*.

²²<https://www.billboard.com/wp-content/uploads/2024/02/february-15-2024-billboard-bulletin.pdf>

²³<https://www.musicradar.com/news/kanye-west-donna-summer-sample>

Hyperion Records Ltd v Sawkins

In the case of Hyperion Records Ltd v Sawkins²⁴ on the 19th of May 2005, the concern of copyright infringement was launched in the context of the claim for originality of musical works. In this case, Dr. Sawkin created four new performing editions from the musical compositions by the Late Lalande (Courts of Louis XIV and Louis XV). Hyperion Records released these editions in October 2002.

However, Hyperion Records was marked for disputing the copyright entitlement of these editions by Dr Sawkin, as they placed the justification that an editor cannot have copyright over non-copyrighted works. Though Dr. Sawkin received a 'hire fee', still he put the case of infringement of copyright. The process of justice under the CDPA 1988 dismissed the submissions of Hyperion Records and ruled that despite being Lalande's compositions, Dr. Sawkin's performing editions were original.

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The significance of this case in this research gets counted as it established the definition of "originality" for the music industry and under its provision, the restructuring of the original tracks by AI from human artists, remains free of any kind of copyright allegations. While addressing the Copyright Law against AI-generated music, this case weakens the context completely.

The Verve vs. The Rolling Stones - "Bitter Sweet Symphony" Case

"Bitter Sweet Symphony" of 1997 by The Verve was alleged of copyright infringement by ABKCO Records, the owner of the rights to The Rolling Stones; for sampling its song "The

²⁴ [2005] EWCA Civ 565

Last Time".²⁵ ABKCO Records claimed it allowed The Verve to sample the music, but the company used more of the sample than the portion that has been license-permitted. The judgement in the case stated that the royalties for the songwriting of "The Last Time." and the majority of publishing royalties meant for "*Bitter Sweet Symphony*" must be awarded to Mick Jagger and his partner Keith Richards from The Rolling Stones.

Thus, despite obtaining a license to use the Verve's song "*Bitter Sweet Symphony*," from a sample to the orchestral version of The Rolling Stones' "*The Last Time*", The Verve was sued for infringement²⁶. Such instances are clear concerns of referring to the complexities of laws related to copyright, that are consistently in demand for modifications. In the context of sampling and further remixing of music, especially AI, the concerns are much more critical as the conflicts are still waiting for clearer directions and regulations.

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Challenges Posed by AI-music Generators for the Music Industry

In an extensive article on the increasing power of AI in the music Industry, MUSIC BUSINESS WORLDWIDE declared, "*As the demand for human musicians decreases, many lose their jobs, and those who remain are forced to adapt to the new AI-driven landscape.*"²⁷

Under the upsurge of these kinds of declarations, it is evident that AI music generators hold enormous advantages as they are capable of bringing inherent risks as well as obstacles to the

²⁵ Tsioulcas. A. 'Not Bitter, Just Sweet The Rolling Stones Give Royalties To The Verve.' NPR Music. (MAY 23, 2019). <https://www.npr.org/2019/05/23/726227555/not-bitter-just-sweet-the-rolling-stones-give-royalties-to-the-verve> accessed 4th April 2024

²⁶ Savage, M. 'The bitter sweet symphony dispute is over.' BBC News. (2019). <https://www.bbc.com/news/entertainment-arts-48380600> accessed 4th April 2024

²⁷ MUSIC BUSINESS WORLDWIDE. WHY THE POWER OF AI MAY HOLD THE KEY TO DISTRIBUTING WEALTH THROUGHOUT THE MUSIC INDUSTRY (PART 1). MUSIC BUSINESS WORLDWIDE. APRIL 6, 2023 <https://www.musicbusinessworldwide.com/why-the-power-of-ai-may-hold-the-key-to-distributing-wealth-throughout-the-music-industry-part-1/> accessed 4th April 2024

growth of music created by humans²⁸. Creating a severe threat to the professional musicians, AI music has advanced its sophisticated deliverance of customer-oriented music with customised compositions. Such deliverance is consequently triggering an exclusive scale of unemployment added by financial instability to the entire music industry.²⁹

It is worth mentioning that irrespective of any ethical dilemmas, AI-generated music is getting accepted by the public and as such, it must get regulated under copyright matters. Since the AI algorithms are trained based on vast datasets accumulated from preexisting music, it becomes important that the preexisting music created by humans gets copyright protection³⁰. With the regulatory policies to acknowledge the preexisting music by the AI, the originality, as well as individuality of the creator and publishers, will attain recognition and rightful attribution of authorship³¹.

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Conclusion

In summary, the rise of AI-generated music raises several legal, moral, and artistic issues that cast doubt on the current structures governing copyright and artistic integrity. The use of copyrighted material in AI systems, as demonstrated by Jukedek and Anthropic Claude and

²⁸ Khobragade, S. 'Enhancement In Music Player System Using Artificial Intelligence.' *EPRA International Journal of Research & Development (IJRD)*, 8(3), 154-156. (2023). <https://doi.org/10.36713/epra12663> accessed 4th April 2024

²⁹ Avdeeff, M. 'Artificial Intelligence & Popular Music: Skygge, FlowMachines, and The Audio Uncanny Valley.' *Arts*, 4(8), 130. (2019) <https://doi.org/10.3390/arts8040130> accessed 4th April 2024

³⁰ Sturm, B., Iglesias, M., Ben-Tal, O., Miron, M., Gómez, E. 'Artificial Intelligence and Music: Open Questions Of Copyright Law And Engineering Praxis. *Arts*, 3(8), 115. (2019). <https://doi.org/10.3390/arts8030115> accessed 4th April 2024

³¹ Sturm, B., Maruri-Aguilar, H. 'The Ai Music Generation Challenge 2020: Double Jigs In the Style Of O'Neill's "1001".' *Journal of Creative Music Systems*, 1(5). (2021). <https://doi.org/10.5920/jcms.950> accessed 4th April 2024

legal disputes like *Hyperion Records Ltd v Sawkins* and *The Verve vs. The Rolling Stones*, highlights the need for clearer guidelines and responsibility when it comes to intellectual property rights. The implications have a broader scope than just legal consequences, involving matters of originality, possession, and clarity, which have a profound impact on the creative community. As artificial intelligence (AI) progresses and becomes more prevalent in different forms of artistic creation, it is crucial to find a middle ground between technological advancement and protecting the rights and creative efforts of artists. To effectively handle these complexities and promote communication among relevant parties, we can successfully navigate the changing environment of AI-generated music while maintaining the principles of copyright protection and artistic integrity in the era of digital technology.

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